

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

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| BAYER CROPSCIENCE INC. and | : | |
| BAYER CROPSCIENCE LP, | : | |
| | : | |
| Plaintiffs, | : | |
| | : | |
| vs. | : | Case No. 1:13-CV-316 |
| | : | |
| SYNGENTA CROP PROTECTION, | : | |
| LLC, | : | |
| | : | |
| Defendant. | : | |
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**MOTION TO DISMISS BAYER’S INDIRECT AND
WILLFUL INFRINGEMENT CLAIMS**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant Syngenta Crop Protection, LLC (“Syngenta”) moves to dismiss Plaintiffs Bayer CropScience Inc. and Bayer CropScience LP’s (collectively, “Bayer”) claims of induced infringement, contributory infringement, and willful infringement by Syngenta of United States Reissued Patent No. RE 42,394 (“the ‘394 patent”). Bayer’s Complaint fails to plead the necessary factual support to demonstrate that a claim to relief is plausible on its face with respect to each of these claims. *See, e.g.,* Fed. R. Civ. P. 8(a)(2); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *In re Bill of Lading Transmission & Processing Sys. Patent Litig.*, 681 F.3d 1323, 1331 (Fed. Cir. 2012). The reasons to dismiss these claims by Bayer are set forth in detail in the memorandum in support of this motion also filed today.

Bayer's Complaint fails to include the necessary factual allegations to support its indirect and willful infringement claims. Bayer fails to allege that Syngenta had any pre-suit knowledge of the patent, which is a necessary element for indirect and willful infringement claims. In light of the conclusory allegations by Bayer, devoid of the underlying factual support, this Court should dismiss Bayer's claims against Syngenta for inducement, contributory infringement and willful infringement.

Respectfully submitted, this the 30th day of May 2013.

/s/Allison O. Van Laningham

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

William S. Cherry, III (cherry@manningfulton.com)

This the 30th day of May, 2013.

/s/Allison O. Van Laningham

Allison O. Van Laningham